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SUBJECT: SUDAN: FRENCH CONCERNED ABOUT POSSIBLE ICC
INDICTMENT OF BASHIR

REF: NDJAMENA 276

Classified By: Political Minister-Counselor Josiah Rosenblatt, 1.4 b/d)

1. (C) SUMMARY: French MFA Sudan Desk Officer Frederic Bouvier on July 7 expressed concern that ICC Prosecutor Moreno-Ocampo might soon seek to indict Sudan President Bashir for war crimes, which the French believe could have a negative impact on events in the region. Bouvier said France would try to "sensitize" Moreno-Ocampo to the political repercussions of such an indictment. The French continue to promote dialogue between the JEM and the Khartoum regime, with JEM expressing a willingness to talk but with no response from Khartoum. The GOF has refused Khartoum's suggestion that France take the lead in organizing a Chad-Sudan border monitoring operation, preferring that this be carried out within the framework of the Dakar Accords. Acting Chad desk officer Anaele Riou commented on the differences between the civil wars in Chad (more an internecine power struggle) and in Sudan (more an ideological/ethnic conflict). END SUMMARY.

ICC Indictment of Bashir Looming?

2. (C) MFA Sudan Desk Officer Bouvier reviewed the current situation regarding Sudan/Darfur/Chad on July 7. He was quite concerned about information the French had received from the UK indicating that ICC Prosecutor Luis Moreno-Ocampo was going to seek an ICC indictment against Sudan President Bashir for war crimes, and that Moreno-Ocampo might seek to do so during July, perhaps as early as the next few days. While emphasizing that France had no sympathies for Bashir, Bouvier said that an ICC indictment at this time could produce seriously negative effects. These might include Sudan's taking an extreme hard-line position on all international dealings, adoption of an "us against them" bunker mentality, complete refusal to cooperate with UNAMID (or even a demand for its departure from Sudan), expulsion of other IO and NGO elements, and other hostile acts. Khartoum could refuse to implement the CPA and seek to seize Abyei and other important points in dispute with the South. Pressure could mount on figures such as Salva Kiir to cease working with the Khartoum regime and for the South to do its own seizing of key territory. If Bashir were indicted, rebel groups such as the JEM would be emboldened and, moreover, would believe themselves holding the moral high ground in their efforts to unseat Bashir -- "who could condemn them for going after an indicted war criminal?," Bouvier commented. In sum, Bouvier glumly feared a host of destabilizing responses to an ICC indictment. Bouvier said that he believed the Sudanese were aware of possible ICC action against Bashir and possibly other Sudanese leaders.

13. (C) Repeating that France had no sympathy for Bashir, Bouvier said the GOF would try to "sensitize" Moreno-Ocampo to the possible negative ramifications of seeking an indictment. As Bouvier understood it, once Moreno-Ocampo began the process of obtaining an indictment against Bashir, the ICC would study the matter before endorsing the request. There would be a gap in time between the prosecutor's request and an ICC ruling. However, Bouvier believed that even if the ICC did not agree with Moreno-Ocampo, the very act of his seeking an indictment could trigger the negative scenario he had outlined.

JEM-Khartoum

14. (C) Bouvier said that France was continuing its efforts to promote JEM-Khartoum reconciliation. A political settlement between the two would mark a major step in resolving a key element of the Sudan/Darfur/Chad cluster of problems. Bouvier said that in the meantime, JEM continued to grow in strength and that its recent attack in the vicinity of Khartoum, while a defeat, had produced increased support among Darfurians who viewed JEM as a militarily strong and bold representative of their interests. JEM's pool of potential fighters and its overall base of support in Darfur was growing. This could mean that it was preparing to strike again.

15. (C) The French had expressed their concerns and the need for Khartoum to seek reconciliation with the rebels when Sudan FM Deng Alor visited Paris on June 19. Deng seemed to understand the importance of dealing with the JEM, Bouvier

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said, and he noted that Deng met privately with JEM representatives while in Paris. For its part, the JEM had told the French that it was willing to talk to Khartoum but the Khartoum regime had not made any similar statements to the French, notwithstanding any private contact between Khartoum and rebel elements.

Border Protection

16. (C) Bouvier said that Khartoum had suggested that France lead a border monitoring operation, of the type mentioned in the Dakar Accords, using French forces in Chad as part of France's Operation Epervier. Bouvier said that France did not agree, citing France's own heavy engagement in EUFOR in Chad/C.A.R. Any such operation, the French believed, should be conducted by Africans, within the framework of the Dakar Accords. (NOTE: Bouvier did not comment on the possible border patrolling function of an expanded MINURCAT envisioned by SRSF Angelo as reported reftel. END NOTE.) The French were most miffed, Bouvier said, by Khartoum's suggestion that the French, if engaged in a border monitoring operation, provide certain "assurances" to Sudan. Bouvier said the GOF has interpreted these "assurances" as a guarantee on France's part that it would militarily interdict any Sudanese rebel forces moving into Sudan from Chad. This, he said, was out of the question, and the Sudanese should have known that it would have been absurd for France to agree, in effect, to join with Sudan in military operations to stop the Chad-based Sudan rebels.

17. (C) Despite the not very positive recent trends, Bouvier said that France would continue its efforts to promote political dialogue and reconciliation between Khartoum and its rebel opponents. He observed that the UNSC sanctions process was in abeyance, in part because of disagreements between France and the U.S., including especially the issue of sanctioning Daoussa Deby Itno. He said that France continued to insist that Daoussa not be sanctioned, with this remaining a "red-line" matter for the French.

Chad

18. (C) Acting Chad Desk Officer Anaele Riou discussed Chad

briefly with acting Africa Watcher prior to the discussion with Bouvier. She too said that sanctioning Daoussa remained a non-starter for the French. Riou had served at France's Embassy in N'Djamena and was evacuated during the February fighting, never to return there. She said that there was a fundamental difference between the conflicts in Chad and Sudan. The conflict in Chad was more internecine in nature, a pure internal power struggle between groups that knew each other well and whose members had in some cases been allies, and were, in other cases, relatives or members of the same clan. The conflict in Sudan was different, she observed, more ideological in nature and pitting quite different ethnic groups (sub-Saharan Africans and "Arab" Africans) against each other. In principle, the Chad conflict should be "easier" to resolve but the rebels continued to make absolutist demands that the government could not possibly accept. Riou indicated that France would continue to try to promote dialogue with the rebels in both Chad and Sudan, using sanctions or the threat of sanctions as a means of encouragement with that goal in mind and not simply to "punish" the recalcitrant. In Chad, the goal would be to move the parties to implement the August 13, 2007, agreements. (NOTE: Riou will serve as acting Chad and C.A.R. Desk Officer only through mid-August, when a permanent replacement for former Desk Officer Loic Mizon arrives. Like Lieutenant Colonel Mizon, the new permanent Desk Officer will also be a military officer. END NOTE.)

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